

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 09-63000

WAYNE PHELPS  
and  
EVA SWEET-PHELPS,

Chapter 7

Judge Thomas J. Tucker

Debtors.

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**ORDER DENYING DISCHARGE OF DEBTOR EVA SWEET-PHELPS ONLY,  
IN THIS CHAPTER 7 CASE**

On July 29, 2009, the Court entered an “Order to Show Cause Why Debtor Eva Sweet-Phelps is Entitled to a Discharge,” requiring Debtor Eva Sweet-Phelps and her attorney to “appear . . . and show cause why the debtor(s) is entitled to discharge in view of 11 U.S.C. 727(a)(8) and 727(a)(9).” The Court held a hearing on August 5, 2009. At the hearing, the Court determined that Debtor Eva Sweet-Phelps is not entitled to a Chapter 7 discharge in view of 11 U.S.C. § 727(a)(8), because she received a Chapter 7 discharge in a case commenced within 8 years before the date of the filing of the petition for relief in this case.<sup>1</sup> The Debtor Wayne Phelps is *not* subject to a denial of discharge on this basis, because he did not receive a Chapter 7 discharge in a case commenced within 8 years before the date of the filing of the petition for relief in this case.

Accordingly,

IT IS ORDERED that Debtor Eva Sweet-Phelps’s discharge in this Chapter 7 case is  
DENIED.

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<sup>1</sup> Debtor Eva Sweet-Phelps received a Chapter 7 discharge in this Court, in Case No. 01-54343, on November 15, 2001. (She was then known as Eva Marie Feeler.) That case was filed on July 25, 2001. The present case was filed on July 24, 2009.

IT IS FURTHER ORDERED that, consistent with 11 U.S.C. §§ 362 (a) and 362(c)(1), the automatic stay under § 362(a) continues with respect to any act against property of the estate, until such property is no longer property of the estate; or until such stay terminates under some other provision of the Bankruptcy Code; or until the Court orders otherwise.

IT IS FURTHER ORDERED that, consistent with 11 U.S.C. §§ 362 (a) and 362(c)(2)(C), the automatic stay under § 362(a) of any act against Debtor Eva Sweet-Phelps,<sup>2</sup> other than an act against property of the estate, is terminated.

This Order is without prejudice to Debtor Eva Sweet-Phelps's right to seek to convert this case to Chapter 13 and to seek to obtain a discharge under Chapter 13. *See generally* 11 U.S.C. § 1328(f).

This Order also is without prejudice to the right of either or both of the Debtors to file a motion to voluntarily dismiss this bankruptcy case under for cause under 11 U.S.C. § 707(a).

**Signed on August 05, 2009**

/s/ Thomas J. Tucker  
**Thomas J. Tucker**  
**United States Bankruptcy Judge**

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<sup>2</sup> This Order does not terminate or otherwise affect the automatic stay as to Debtor Wayne Phelps.